



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 00-6273-CR-HUCK

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ARIEL HERNANDEZ, et al.,

Defendants.

**ORDER ADOPTING AND RATIFYING STIPULATION
REGARDING RECONSTRUCTION OF THE RECORD ON LIMITED REMAND
AND NOTICE OF DISPUTE CONCERNING SCOPE OF REMAND**

THIS CAUSE having come on to be heard based upon the limited remand issued by the Eleventh Circuit Court of Appeals, and the Court having conducted an evidentiary hearing and having reviewed the parties' Stipulation Regarding Reconstruction of the Record on Limited Remand, it is hereby

ORDERED AND ADJUDGED that the Stipulation attached hereto as Exhibit "A" and incorporated herein by reference is hereby ratified and approved.

FURTHER, the District Court respectfully notifies the Eleventh Circuit Court of Appeals that during the limited remand a dispute arose as to the scope of the remand. The Defendants contended on remand that when the Eleventh Circuit Court of Appeals remanded this matter "... to determine, if possible, what tapes were played to the jury and when the during trial they were played," the remand required the Court to make a determination as to which portions of which tapes were played at specific points in the Record. This question arose because during trial the tape recorded evidence was not transcribed by the court reporter and several witnesses were questioned concerning tape recorded evidence and the tapes were paused and questions asked mid-tape. Thereafter, the tape was re-started and portions played before other questioning.

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This Court has reconstructed the Record to determine which specific tapes were played to the jury and where in the Record on Appeal each tape was played. Should the Eleventh Circuit Court of Appeals determine that the scope of the remand was broader than interpreted by the District Court and the Government, it is requested that this matter be remanded back to accomplish the same.

The Court finds that all of the tapes introduced by the Government were played for the jury during trial. The Court further finds that the reconstructed record discloses an accurate account of the trial.

DONE AND ORDERED in Chambers, Miami, Florida, this 17th day of September, 2003.


PAUL HUCK
U.S. DISTRICT COURT JUDGE

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